APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,385	12/27/2000	Joyo Wijaya	WVANP013	6355

34071	7590	05/05/2005

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EXAMINER
THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
3627	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/750,385	WIJAYA ET AL.
	Examiner	Art Unit	
	Marissa Thein	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 January 2005*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32,34 and 35* is/are pending in the application.

    4a) Of the above claim(s) *36* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-32,34 and 35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1-3-05, 4-20-05*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January

3, 2005 has been entered.

Response to Amendment

Applicants' "Amendment B (resubmitted)" filed February 8, 2005on has been

considered with the following effects.

Claims 1, 3-13, 15-17, 19-25, 27-32 and 34 are amended. Claim 33 is canceled.

Claim 36 is withdrawn. Claims 1-32 and 34-35 remain pending and an action on the

merits of these claims follows.

Information Disclosure Statement

The information disclosure statements (IDS) submitted on January 3, 2005 and

April 20, 2005 are being considered by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-13, 15-32, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,839,117 to Cameron et al. in view of the Article "Management of Multi-Item Retail Inventory Systems With Demand Substitution" (Demand Substitution).

Regarding claims 1, 15, and 23, Cameron discloses a computer-implemented method, program, and system for effecting via a computer network, substitution of at least one ordered item of at least one customer order, comprising: receiving, via the computer network, at least one customer order (captures order information), the at least one customer order including more than one ordered item (offers being ordered by the customer, col. 10, lines 40-41; col. 8, lines 37-48; col. 14, lines 40-53), with at least one ordered item relating to an ordered quantity larger than one of a particular item of inventory (col. 8, lines 37-48; col. 17, lines 5-12; col. 18, lines 49-51); analyzing a selected portion of the received customer order to determine whether at least one item of inventory has been oversold (col. 17, lines 34-47); identifying an ordered item in the received customer order relating to an oversold item (col. 17, lines 34-47); substituting, based upon at lest one predefined criterion, at least one substitute item for the identified ordered item in the received customer order (col. 17, lines 34-47; col. 18, lines 49-51).

However, Cameron does not disclose analyzing a selected portion of the received customer order taking into consideration at least another customer order, said analyzing being performed prior to the delivery of at least one ordered item of the received customer order and at least one ordered item of the at least another customer order. Cameron discloses if an ordered product is not available, the system provides

the customer with choices (col. 17, lines 34-36). One of the choices is choosing to order an alternate or substitute (col. 17, lines 38-39).

The Article Demand Substitution, on the hand, teaches analyzing a selected portion of the received customer order taking into consideration at least another customer order, said analyzing being performed prior to the delivery of at least one ordered item of the received customer order and at least one ordered item of the at least another customer order (pages 52-53).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the method, program, and system of Cameron, to include analyzing a selected portion of the received customer order taking into consideration at least another customer order, said analyzing being performed prior to the delivery of at least one ordered item of the received customer order and at least one ordered item of the at least another customer order, as taught by the Article Demand Substitution, in order to achieve a desired level of customer service (conclusion, page 60), optimize stock levels (conclusion, page 60) and to maximize total expected profit (abstract, page 50).

Regarding claims 2-3, 5-6, 11-13, 16-17, 20-22, 24-25, 27-28, and 30-32, Cameron substantially discloses the claimed invention, however, Cameron does not disclose comparing analyzed order data to inventory data to determine whether at least one item of inventory has been oversold; comparing occurs before fulfillment of said portion of the received customer order; the predefined criterion includes instructions for minimizing a number of order substitutions to be performed for each customer order; the

predefined criterion includes instructions for selecting for substitution an ordered item

over another ordered item based on the corresponding quantity levels of the ordered

item and the another ordered item; the at lest one predefined criterion includes a ratio

rule for substituting the substitute item of the identified ordered item; comparing the

identified ordered item with at least another identified ordered item in another customer

order related to the oversold item based upon the quantity value associated with each of

the identified ordered items; comparing the identified ordered item with at least another

identified ordered item in another customer order related to the oversold item based

upon a number of related substitution already implemented in each customer order

associated with the identified ordered item; accessing the at least one predefined

criterion to determine a second preferred substitution item; partially substituting include

for reducing a quantity of the ordered item and adding a specified quantity of a new item

in the respective customer order; and full substitution for reducing a quantity of the

ordered item to zero and adding a specified quantity of a new item in the respective

customer order.

Cameron discloses if an ordered product is not available, the system provides

the customer with choices (col. 17, lines 34-36). The choices include he or she may

order the quantity that is available and accept the backorder quantity to be shipped at a

later date, order only the available quantity, and choose to other an alternate or

substitute offer. One of the choices is choosing to order an alternate or substitute (col.

17, lines 36-39).

The Article Demand Substitution, on the hand, teaches comparing analyzed

order data to inventory data to determine whether at least one item of inventory has

been oversold; comparing occurs before fulfillment of said portion of the received

customer order; the predefined criterion includes instructions for minimizing a number of

order substitutions to be performed for each customer order; the predefined criterion

includes instructions for selecting for substitution an ordered item over another ordered

item based on the corresponding quantity levels of the ordered item and the another

ordered item; the at lest one predefined criterion includes a ratio rule for substituting the

substitute item of the identified ordered item; comparing the identified ordered item with

at least another identified ordered item in another customer order related to the oversold

item based upon the quantity value associated with each of the identified ordered items;

comparing the identified ordered item with at least another identified ordered item in

another customer order related to the oversold item based upon a number of related

substitution already implemented in each customer order associated with the identified

ordered item; accessing the at least one predefined criterion to determine a second

preferred substitution item; partially substituting include for reducing a quantity of the

ordered item and adding a specified quantity of a new item in the respective customer

order; and full substitution for reducing a quantity of the ordered item to zero and adding

a specified quantity of a new item in the respective customer order.

(pages 52-60).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to include the method, program, and system of

Cameron, to include the comparing, the predefined criterion, the accessing, the partially

substituting; and full substitution, as taught by the Article Demand Substitution, in order

to achieve a desired level of customer service (conclusion, page 60), optimize stock

levels (conclusion, page 60) and to maximize total expected profit (abstract, page 50).

Regarding claims 4, 7-10,18-19, 26, and 35, Cameron discloses substituting

includes selecting, using the at least one predefined criterion, a desired order item

corresponding to the oversold item; the ordered item substitution occurs at a time of

fulfillment of said portion of the received customer order; wherein the ordered item

substitution is performed at a time of fulfilling an order without intervention from a

human operator; the ordered item substitution is performed by an automated computer

process; the at least one predefined criterion includes a sorted list of substitute products

from which the substitute item is chosen; accessing the at least one predefined criterion

to determine a first preferred substitution item for the identified item; and determining

whether a sufficient quantity of the first preferred substitution item is available to be

substituted for the identified item (col. 2, lines 45-47; col. 17, lines 34-48; col. 18, lines

50-52).

Regarding claim 29, Cameron discloses a computer-implemented method for

effecting, via a computer network, substitution of at least one ordered item of at least

one customer order, comprising; receiving, via the computer network, at least one

customer order (captures order information), the at least one customer order including

more than one ordered item (offers being ordered by the customer, col. 10, lines 40-41;

col. 8, lines 37-48; col. 14, lines 40-53), with at least one ordered item relating to an

ordered quantity larger than one of a particular item of inventory (col. 8, lines 37-48; col. 17, lines 5-12; col. 18, lines 49-51); analyzing a selected portion of the received customer order to determine whether at least one item of inventory has been oversold (col. 17, lines 34-47); identifying an ordered item in the received customer order relating to an oversold item (col. 17, lines 34-47); substituting, based upon at lest one predefined criterion, at least one substitute item for the identified ordered item in the received customer order (col. 17, lines 34-47; col. 18, lines 49-51); and wherein the substitution includes the accessing the at least one predefined criterion to determine a first preferred substitution item for the identified item, and the determining whether a sufficient quantity of the first preferred substitution item is available to be substituted for the identified item (col. 2, lines 45-47; col. 17, lines 34-48; col. 18, lines 50-52).

However, Cameron does not disclose analyzing a selected portion of the received customer order taking into consideration at least another customer order, said analyzing being performed prior to the delivery of at least one ordered item of the received customer order and at least one ordered item of the at least another customer order. Cameron discloses if an ordered product is not available, the system provides the customer with choices (col. 17, lines 34-36). The choices include ordering the quantity that is available and accept the backorder quantity to be shipped at a later date, ordering only the available quantity, and choosing to other an alternate or substitute offer. One of the choices is choosing to order an alternate or substitute (col. 17, lines 36-39).

The Article Demand Substitution, on the hand, teaches analyzing a selected portion of the received customer order taking into consideration at least another customer order, said analyzing being performed prior to the delivery of at least one ordered item of the received customer order and at least one ordered item of the at least another customer order (pages 52-53).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the method, program, and system of Cameron, to include analyzing a selected portion of the received customer order taking into consideration at least another customer order, said analyzing being performed prior to the delivery of at least one ordered item of the received customer order and at least one ordered item of the at least another customer order, as taught by the Article Demand Substitution, in order to achieve a desired level of customer service (conclusion, page 60), optimize stock levels (conclusion, page 60) and to maximize total expected profit (abstract, page 50).

Claims 14 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,839,117 to Cameron et al. and the Article "Management of Multi-Item Retail Inventory Systems With Demand Substitution" (Demand Substitution) in view of U.S. Patent No. 5,963,919 to Brinkley et al. Cameron and the Article Demand Substitution substantially disclose the claimed invention, however, it does not disclose the aggregating a selected portion of the received customer orders or the plurality of customer orders. The combination discloses a computerized method for placing an order by a user via a computer (Cameron, col. 2, lines 45-47). The

combination teaches a total demand that the number of customers who prefer to purchase a particular item (Demand Substitution, page 52).

Brinkley, on the other hand, teaches the aggregating a selected portion of the received customer orders or the plurality of customer orders (see at least col. 4, lines 35-41; col. 4, lines 55-61; col. 5, lines 9-15).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include the aggregating a selected portion of the received customer orders or the plurality of customer orders, as taught by Brinkley, in order to fulfill customer's orders (Brinkley, col. 1, lines 15-16).

Response to Arguments

Applicant's arguments with respect to claims 1-32, and 34-35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

"Estimation of Consumer Demand with Stock-Out Based Substitution: An Application to Vending Machine Products" (1998) discloses methods to estimate demand rates and substitution rates. A model is developed in the context of retail vending that is based on customer arrivals and choice between goods that explicitly allows for possible product substitution.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MTot
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JAMES MCCLELLAN
PRIMARY EXAMINER